Remarks of

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Conference on Satellite Entertainment:
Five Burning Questions

"Industry and the FCC:
A Partnership Towards Consumer Choice
And Spectrum Efficiency"

Good afternoon.

Thank you for the opportunity to be the final speaker in today's forum about satellite entertainment issues and challenges.

This afternoon I am going to speak about two challenges facing the satellite entertainment industry:

- The need to respond to customer demands for more and better service choices; and
- The imperative to use spectrum efficiently.

Let me proceed by:

- Saying that I think the industry has done an admirable job at meeting these demands; and,
- By asserting that the FCC has played its role by enabling the industry to continue to respond in the future.

First assertion: **the satellite industry provides unique service options to consumers, particularly in ex-urban and rural areas.**

Satellite networks are unique because they provide nation-wide (or nearly nation-wide) service. And, thanks to technological advances in the past decade, they do so through two different types of systems: GSO and NGSO.

Today, in the geosynchronous orbit (GSO), there are approximately:

- 90 FCC-licensed active commercial communications satellites and
- 25+ non-U.S. satellites authorized to serve the United States.

In non-geostationary orbits, there are

- Four active commercial communications satellite systems,
- Comprising approximately 145 FCC-licensed satellites, serving the United States.

Most FCC-authorized satellite systems cover all (or most) of the country and earth stations are relatively easy to install. As a result, satellites are uniquely capable of providing services to rural and isolated areas. Of great importance to the FCC's goals of providing communications to all Americans, satellite technology offers services in areas where they cannot be provided by other technologies.

A case in point is DBS and DARS.

In addition to making services available to rural customers, DBS and DARS provide service ALTERNATIVES to consumers across the country. Those service options are growing in market segment and consumer demand.

As a percentage of pay TV subscribers, in half a decade DBS subscribers have doubled, from less than 10% in 1998 to more than 20% today. That means that one in five television households in the United States receives television by satellite, the fastest growth ever for a consumer electronics product.

DARS did not even exist until 2001. Now, there are two DARS operators providing alternatives to traditional radio service to about two million subscribers. And the number of subscribers is growing every day.

Competition between the two DARS providers is valuable to consumers because it keeps their prices as low as possible. It also encourages all broadcasters of radio programming to keep their service quality as high as possible. Consistent with the FCC's 1997 SDARS order and our Part 25 rules we look forward to the day when receivers from both

companies are technically compatible, thereby allowing consumers to buy one radio to access both companies' signals.

In the future there will be new internet/broadband applications that benefit consumers.

Satellite operators are also finding new and innovative ways to provide other services to consumers.

For example, even today Hughes network systems offers "Directway," a two-way broadband internet access service with speeds of half a megabit per second using Ku-band satellites. As of June 2003, this service had approximately 166,000 consumer subscribers in North America.

In the future, satellites are expected to offer a faster, more competitive broadband internet service through ka-band satellites. Echostar launched a satellite WITH a ka-band payload ("Echostar 9") in August 2003, and we expect more Ka-band licensees to launch their satellites in 2004.

Ka-band satellite systems have the potential to provide a wide variety of sophisticated digital telecommunications service alternatives, including broadband, interactive, direct-to-home services, to all parts of the country -- from cities and suburbs, to rural and isolated areas. Ka-band licensees propose to provide a number of services, including video teleconferencing, telemedicine, distance learning and high-speed two-way interactive computer services.

Satellite technology is also providing broadband services to places that people may not have thought possible (like ships and planes):

-- earth stations on board vessels (ESV's), are making internet service available on cruise ships in the middle of the ocean.

-- In 2001, the FCC authorized Boeing to provide satellite-based internet access on passenger airplanes.

Now I'd like to talk about how the FCC's policies help the satellite industry respond to customer needs.

The commission is committed to fostering the growth of a competitive market in which companies can prosper and create a wide array of consumer choices. An important focus of the work of the international bureau is on ensuring the efficient use of spectrum, as well as on expanding consumer choice in the satellite entertainment area.

The centerpiece of this work is on the process we use to issues earth- and space-station licenses. Over the past three years, we have completely reformed our licensing process for most non-DBS and non-DARS systems. We face less pressure to reform our licensing process for DBS and DARS as they are assigned through auctions.

As a prelude to this discussion, let me summarize the satellite licensing process.

First, the international telecommunication union (ITU) determines whether to allocate spectrum to satellite services or to other uses in world radiocommunications conferences, which are held every three years.

Second, for GSO satellites, the ITU assigns each country priority over certain orbit locations. For DBS satellites, orbit locations are spelled out in a band plan in the ITU's radio regulations. For other GSO satellites, each country's orbit location priority is determined on a first-come, first-served basis.

Third, in response to applications to it, the FCC decides whether or not to issue satellite licenses. The commission has a number of congressionally-mandated regulations that apply to DBS satellite operators after they are licensed, including content regulation (such as local-into-local requirements). However, I would like to focus solely on the commission's facilities licensing procedures here, because that provides good examples of how the commission tries to promote the satellite industry's efforts to expand service options for consumers.

For example, in recent years, the commission has adopted dramatic revisions to its licensing procedures, so that it can issue satellite licenses faster, thereby enabling satellite operators to provide their services sooner. The international bureau has also interpreted those procedures in ways to facilitate new entry and expanded service options. Let's look at licensing procedures first.

Some of the licensing reforms we have adopted concern auctioning of DBS spectrum.

The commission adopted DBS auction rules in 1995. Auctions enable the commission to issue licenses more quickly than would be possible under many other licensing procedures. More importantly, auctions provide a market-based mechanism that determines the highest value of license.

Our next planned auction for DBS licenses is now scheduled for July 14, 2004. Auction No. 52 will include the three licenses for:

-- 32 unassigned channels at the 175° w.l. orbital location;

-- 32 unassigned channels at the 166° w.l. orbital location; and

-- 29 unassigned channels at the 157° w.l. orbital location.

[Two additional available channels (at 61.5º w.l.) are currently under consideration, as is the issue of whether any eligibility restrictions should apply to those channels.]

There are no eligibility requirements for the three western orbit locations in auction no. 52.

Short-form applications for the auction are due May 21, 2004. Upfront payments will be due June 18, 2004. Following these deadlines, the FCC will issue a public notice listing all those qualified to bid in the auction. We look forward to the licensing of additional DBS services before too long.

Some of the licensing reforms we have adopted concern space stations.

For satellite licenses other than DBS and DARS, the Commission reformed its licensing procedures in 2003. For most GSO applications, the Commission adopted a first-come, first-served approach. The Commission:

- Considers applications in the order they are filed, and
- Grants each application if it is filed by a qualified applicant and the application does not conflict with any previously filed application.

For most NGSO systems, the Commission modified its long-standing approach, called "processing rounds," Under this procedure, when a NGSO application is filed, the commission releases a public notice inviting competing applications. The Commission will review all the applications filed, and divide the available spectrum in the frequency band equally among all the qualified applications.

Under its previous satellite licensing procedure, it could take three years for the FCC to issue a satellite license. We expected the new procedures to reduce these times to 180 days for GSO applications and 270 days for NGSO applications, on average. Our experience has been better than we expected. For the first six months in which the new system has been in place, we have acted on GSO satellite applications in an average of 81 days.

These new satellite procedures are another example of the FCC creating procedures that ensure efficient use of spectrum while expanding consumer choice. The fact is that when we issue satellite licenses more quickly, we enable licensees to start building satellites earlier, and to turn on their service sooner.

The FCC is always interested in increasing the number of service providers. Towards this end, we issue waivers, when warranted.

In addition to helping licensees get their services to customers faster, we have also issued licenses to innovative applicants who have found creative ways to increase the range of services available to consumers, or to increase number of service providers.

For example, I mentioned earlier that broadband internet access is now available on cruise ships and airplanes. Those services would not be possible if the FCC had not granted waivers of its rules; or in other words, decided to not apply certain of its rules in these instances.

-- We do not waive our rules lightly;

-- granting a waiver means that we are treating one party differently than other parties, and so we require parties seeking a waiver to demonstrate good cause for their request.

I believe the fact that we consider waiver requests (rather than treating our rules as absolutes) demonstrates that we can be flexible. Thus, when we recognize that our rules are limiting rather than expanding customer choice, we act accordingly.

Towards this end, we have worked to license ku-band NGSO systems.

We also look for ways to use the spectrum more efficiently, by allowing new entrants to use spectrum in cases where we find that it will not cause harmful interference to existing licensees in that frequency band.

- One example is the ku-band, where ku-band NGSO service rules have created the potential for several future satellite-based broadband and internet access service providers.
- Specifically, in 2001, the commission adopted a method for spectrum sharing between GSO and NGSO licensees in the ku-band, thereby allowing new NGSO satellite operators to enter the market.

We are looking forward to acting on applications for ku-band NGSO licenses by the end of this year.

Towards this end, we consider requests for new orbit locations for DBS services.

Another way that the Commission has sought to facilitate satellite service providers' efforts to increase consumers' service options is to consider applications to provide service at new orbit locations. For example, we authorized two companies--DBAC and Pegasus--to provide TV programming to the United States using Canadian satellites.

This raises complex regulatory issues, including:

- Which government--the united states or Canada--has jurisdiction over the satellite; and
- How to accommodate trade concerns over Canadian rules that discriminate against U.S. Programmers.

However, we worked to resolve those issues, and as a result, developed an alternative means for satellite operators to provide service to U.S. consumers.

Finally, we are considering industry proposals to allow DBS service providers to place satellites 4.5° apart, instead of 9° apart as is done now. We are still reviewing the record to determine whether it is possible to allow 4.5° spacing without causing harmful interference to incumbent satellite operators.

We have also focused on the issues on delivering services to ex-urban and rural communities.

On January 27, 2004, the Commission held a rural satellite forum, featuring satellite-based communications systems serving rural areas of the United States. It included four panels of experts and providers, as well as demonstrations and exhibits, highlighting specific consumer applications in:

(1) Telemedicine and distance learning;

(2) Public safety and homeland security;

(3) Agriculture and farming; and

(4) Broadband access, information and mass media entertainment.

The rural forum was designed to educate the public and users about the availability of services, encourage development of new and innovative services and programs, as well as explore economic approaches to serving the communications needs of rural America. The audience at the forum included company representatives, government officials and end users.

The forum demonstrated clearly that satellite technology can make services available in areas that other technologies cannot reach and in a cost-effective manner. It provided an opportunity for satellite operators to promote their services, and to highlight that satellites make services available in rural areas that otherwise might not exist for those customers.

In conclusion, satellite television and radio services have been very successful. They have also proven to be strong competitors to traditional communications services (such as broadcast TV or cable). This competition has kept consumer prices reasonable and inspired an improvement in service quality. Frankly, satellite systems embody the core

principles on which the FCC's work is based: to promote market-based competition that serves the public interest in delivery reliable communications services to all Americans.

That is why, along with my colleagues in the international and media bureau, I am proud to work with the satellite industry as it continues to innovate and provide quality service throughout our nation.

Thank you.